

B-Engrossed Senate Bill 1528

Ordered by the Senate February 21
Including Senate Amendments dated February 9 and February 21

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates tax credit for contributions to Opportunity Grant Fund. Directs Department of Revenue, in cooperation with Higher Education Coordinating Commission, to conduct auction of tax credits. Establishes Opportunity Grant Fund. Directs commission to use moneys in fund for Oregon Opportunity Grant program. Limits amount of credits per fiscal year. Applies to tax years beginning on or after January 1, 2018, and before January 1, 2024.

Requires, for Oregon income tax purposes, addition to federal taxable income of amount of federal deduction for qualified business income from pass-through entity. Applies to tax years beginning on or after January 1, 2018.

[Expands availability of elective reduced tax rate for certain pass-through income to taxpayer doing business as sole proprietor. Disallows qualification for elective reduced rate using hours performed by employees performing in certain industry sectors. Limits amount of income for which reduced rate may be elected. Applies to tax years beginning on or after January 1, 2018.]

[Increases amount of personal exemption tax credit. Applies to tax years beginning on or after January 1, 2018, and before January 1, 2026.]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to taxation; creating new provisions; amending ORS 314.752 and 318.031; and prescribing
3 an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 and 3 of this 2018 Act are added to and made a part of ORS**
6 **chapter 315.**

7 **SECTION 2. (1) A credit against the taxes that are otherwise due under ORS chapter 316**
8 **or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer**
9 **for certified Opportunity Grant contributions made by the taxpayer during the tax year to**
10 **the Opportunity Grant Fund established under section 4 of this 2018 Act.**

11 **(2)(a) The Department of Revenue shall, in cooperation with the Higher Education Coor-**
12 **minating Commission, conduct an auction of tax credits under this section. The department**
13 **may conduct the auction in the manner that it determines is best suited to maximize the**
14 **return to the state on the sale of tax credit certifications and shall announce a reserve bid**
15 **prior to conducting the auction. The reserve amount shall be at least 95 percent of the total**
16 **amount of the tax credit. Moneys necessary to reimburse the department for the actual**
17 **costs incurred by the department in administering an auction, not to exceed 0.25 percent of**
18 **auction proceeds, are continuously appropriated to the department. Moneys necessary to**
19 **reimburse the commission for the actual costs incurred by the commission in administering**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to
2 the commission. The department shall deposit net receipts from the auction required under
3 this section in the Opportunity Grant Fund.

4 (b) The commission may adopt rules necessary for the administration of the auction.

5 (3) Contributions made under this section shall be deposited in the Opportunity Grant
6 Fund.

7 (4)(a) Upon receipt of a contribution, the commission shall, except as provided in section
8 3 of this 2018 Act, issue to the taxpayer written certification of the amount certified for tax
9 credit under this section to the extent the amount certified for tax credit, when added to all
10 amounts previously certified for tax credit under this section, does not exceed \$14 million for
11 the fiscal year in which certification is made.

12 (b) The commission and the department are not liable, and a refund of a contributed
13 amount need not be made, if a taxpayer that has received tax credit certification is unable
14 to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

15 (5) To the extent the commission does not certify contributed amounts as eligible for a
16 tax credit under this section, the taxpayer may request a refund of the amount the taxpayer
17 contributed, and the commission shall refund that amount.

18 (6)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under
19 this section may not exceed the tax liability of the taxpayer and may not be carried over to
20 another tax year.

21 (b) Any tax credit otherwise allowable under this section that is not used by the taxpayer
22 in a particular tax year may be carried forward and offset against the taxpayer's tax liability
23 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
24 year may be carried forward and used in the second succeeding tax year, and likewise, any
25 credit not used in that second succeeding tax year may be carried forward and used in the
26 third succeeding tax year but may not be carried forward for any tax year thereafter.

27 (c) A taxpayer is not eligible for a tax credit under this section if the first tax year for
28 which the credit would otherwise be allowed begins on or after January 1, 2024.

29 (7) If a tax credit is claimed under this section by a nonresident or part-year resident
30 taxpayer, the amount shall be allowed without proration under ORS 316.117.

31 (8) If the amount of contribution for which a tax credit certification is made is allowed
32 as a deduction for federal tax purposes, the amount of the contribution shall be added to
33 federal taxable income for Oregon tax purposes.

34 **SECTION 3.** (1) In lieu of the issuance of certifications for tax credit under section 2 of
35 this 2018 Act by the Higher Education Coordinating Commission, the Legislative Assembly
36 may, no later than 30 days prior to the end of each fiscal year, appropriate to the commission
37 for deposit into the Opportunity Grant Fund established under section 4 of this 2018 Act an
38 amount equal to the total amount that would otherwise be certified for tax credits during
39 the upcoming fiscal year, based on the amount of contributions and accompanying applica-
40 tions for credit received by the commission during the fiscal year.

41 (2) If the Legislative Assembly makes the election allowed in subsection (1) of this sec-
42 tion:

43 (a) Any contributions to the Opportunity Grant Fund made for the upcoming fiscal year
44 and for which an application for a credit under section 2 of this 2018 Act is pending shall,
45 at the request of the taxpayer, be refunded by the commission; and

1 (b) A credit under section 2 of this 2018 Act may not be claimed for any contribution
2 made during the current fiscal year.

3 **SECTION 4.** (1) The Opportunity Grant Fund is established in the State Treasury, sepa-
4 rate and distinct from the General Fund. Interest earned by the Opportunity Grant Fund
5 shall be credited to the fund.

6 (2) Moneys in the Opportunity Grant Fund shall consist of:

7 (a) Amounts donated to the fund;

8 (b) Amounts appropriated or otherwise transferred to the fund by the Legislative As-
9 sembly;

10 (c) Other amounts deposited in the fund from any source; and

11 (d) Interest earned by the fund.

12 (3) Moneys in the fund are continuously appropriated to the Higher Education Coordi-
13 nating Commission. After the payment of refunds to taxpayers as described in sections 2 and
14 3 of this 2018 Act and payments to a tax credit marketer for marketing services provided by
15 the marketer as described in section 5 of this 2018 Act, the balance remaining in the fund
16 shall be used for the Oregon Opportunity Grant program under ORS 348.260.

17 (4) Expenditures from the fund are not subject to ORS 291.232 to 291.260.

18 **SECTION 5.** The Higher Education Coordinating Commission may hire or contract with
19 a marketer to market the tax credits described in section 2 of this 2018 Act to taxpayers.

20 **SECTION 6.** Sections 2, 3 and 5 of this 2018 Act apply to tax years beginning on or after
21 January 1, 2018, and before January 1, 2024.

22 **SECTION 7.** ORS 314.752 is amended to read:

23 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
24 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
25 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
26 allowable to the shareholders of the S corporation.

27 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
28 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
29 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
30 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
31 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
32 manner prescribed under section 1377(a) of the Internal Revenue Code.

33 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
34 of this section shall be determined as if such item were realized directly from the source from which
35 realized by the corporation, or incurred in the same manner as incurred by the corporation.

36 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
37 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
38 316.117, then that provision shall apply to the nonresident shareholder.

39 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104
40 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
41 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
42 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS
43 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee
44 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution
45 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy

1 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-
2 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-
3 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),
4 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS
5 315.521 (university venture development funds), ORS 315.523 (employee training programs), ORS
6 315.533 (low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Ac-
7 count contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise
8 zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-
9 search expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter
10 774, Oregon Laws 2013 (alternative fuel vehicle contributions) **and section 2 of this 2018 Act**
11 **(Opportunity Grant Fund contributions).**

12 **SECTION 8.** ORS 318.031 is amended to read:

13 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
14 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
15 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
16 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,
17 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523 and 315.533 **and section**
18 **2 of this 2018 Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

19 **SECTION 9.** **Section 10 of this 2018 Act is added to and made a part of ORS chapter 316.**

20 **SECTION 10.** **There shall be added to federal taxable income for Oregon tax purposes the**
21 **amount allowable as a deduction under section 199A(a) of the Internal Revenue Code for the**
22 **tax year.**

23 **SECTION 11.** **Section 10 of this 2018 Act applies to tax years beginning on or after Jan-**
24 **uary 1, 2018.**

25 **SECTION 12.** **This 2018 Act takes effect on the 91st day after the date on which the 2018**
26 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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